UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1992/SR.54/Add.1
10 March 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Forty-eighth session

SUMMARY RECORD OF THE 54th MEETING
(SECOND PART*)

Held at the Palais des Nations, Geneva,
on Wednesday, 4 March 1992, at 3 p.m.

Chairman: Mr. SOLT (Hungary)

CONTENTS

Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories, including:

(a) Question of human rights in Cyprus

(b) Situation of human rights in occupied Kuwait (continued)

* The summary record of the first part of the meeting appears as document E/CN.4/1992/SR.54.

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GE.92-11747/4296B

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(b) SITUATION OF HUMAN RIGHTS IN OCCUPIED KUWAIT

(agenda item 12) (continued) (E/CN.4/1992/L.24, L.27, L.49/Rev.1, L.62/Rev.1, L.69 and L.70)

Draft resolution on the situation in China/Tibet (E/CN.4/1992/L.49/Rev.1) (continued)

1. Mrs. GOMES (Portugal), introducing the draft resolution on behalf of its sponsors, said that, while seeking to address the human rights situation in China, it highlighted in particular the violations of human rights affecting the Tibetan people, whose distinct cultural, religious and ethnic identity was seriously threatened by the measures imposed by the Government of China.

2. The situation in Tibet appeared to have worsened recently, as could be seen from the reports of the Special Rapporteurs on questions relevant to torture (E/CN.4/1992/17) and on summary or arbitrary executions (E/CN.4/1992/30) and from those of the Working Group on Arbitrary Detention (E/CN.4/1992/20) and the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1992/18). In addition, the Secretary-General had prepared a note on the situation in Tibet (E/CN.4/1992/37), which included a report by the Government of China on that situation as well as reports by 15 non-governmental human rights organizations. The Secretary-General had also received and made available reports from Asia Watch and the Tibet Bureau.

3. In view of the elements before the Commission the sponsors of the draft resolution were convinced of the importance of scrutinizing China's human rights policies and practices, particularly in Tibet, and of the need for the Commission to consider taking action at its current session.

4. Mr. FAN Guoxiang (China) said that his delegation was firmly opposed to the draft resolution on the so-called human rights situation in China/Tibet. It was not based on genuine concern for human rights, but was in open support of a handful of Tibetan separatists in exile abroad who sought to split Tibet from China by fabricating the so-called human rights issue in Tibet. The content of the revised draft resolution (E/CN.4/1992/L.49/Rev.1) was the same as the earlier version (E/CN.4/1992/L.49) which had been circulated in the Commission by Tibetan separatists masquerading as representatives of non-governmental organizations.

5. His delegation had evidence that, on the eve of the opening of the current session, a certain leader of the Tibetan separatist clique in exile had gone so far as to write to the Commission, openly using the name of the "Government of Tibet in exile" to request the adoption of a resolution on the so-called human rights situation in Tibet. His delegation could provide those delegations that so wished with a copy of that letter.

6. The second preambular paragraph of the draft resolution, in both its versions, referred to "other relevant United Nations resolutions", although no resolution had been adopted on Tibet since 1971, when China's legitimate seat in the United Nations had been restored. Three resolutions had been adopted in 1959, 1961 and 1965, with the support of Tibetan separatists who sought to restore the system of serfdom and who had called for the so-called right to self-determination. Those resolutions had been adopted at a time when China had been illegally deprived of its seat in the United Nations and they were thus null and void. The vague reference in that preambular paragraph revealed the true intention of some of the sponsors: to support the independence of Tibet.

7. Sub-Commission resolution 1991/10, also cited in the second preambular paragraph, was based on widespread lies trumped up by a handful of Tibetan separatists and certain non-governmental organizations and forced upon the Sub-Commission by a number of its Western members. It was therefore illogical to refer to that resolution to justify the current draft resolution.

8. China had consistently abided by the principles and purposes of the Charter of the United Nations, devoted itself to promoting and protecting human rights, actively supported the work in the field of human rights and provided the special rapporteurs of the Commission with replies and information on questions concerning Tibet. It had duly submitted its implementation reports to the monitoring bodies of the international human rights instruments to which it was a party. By seeking to place consideration of the so-called situation of human rights in China on the agenda of the Commission's forty-ninth session, the draft resolution chose to ignore those facts.

9. China's monumental efforts to institute democratic reform, abolish serfdom and safeguard the rights of Tibetans had been presented in the draft resolution as human rights violations. That draft resolution, whose aim was to internationalize the issue of Tibet, ran counter to the basic principles of respect for the sovereignty and territorial integrity of States, as enshrined in the Charter of the United Nations. If it was adopted, justice would suffer, and the reputation of the United Nations would be diminished.

10. Mr. KAMAL (Pakistan) said that, ever since China had resumed its seat in the United Nations in 1971, Tibet had been recognized by the Organization as part of China, and it was his delegation's understanding that no country had ever challenged that fact. The question of the sovereignty and territorial integrity of a country was outside the competence of the Commission, which therefore should in no way be used as a forum to challenge the sovereignty and territorial integrity of a Member State.

11. The name and contents of the draft resolution were misleading. To isolate a part of the duly recognized territory of a country and to present a resolution on that particular area was poor practice and a bad precedent. At the current session, certain statements had been heard requesting the independence of Tibet. The allegations made by a number of non-governmental organizations (E/CN.4/1992/37) even referred to Tibet as an independent country under colonial occupation and rule. Against that background, any action by the Commission on the draft resolution, however its intention was explained, would only encourage separatist activities aimed at splitting China.

12. China had been cooperating fully with the United Nations. It had made detailed investigations, had provided dozens of replies to communications transmitted by the Centre for Human Rights and had been maintaining a dialogue with a number of countries on the promotion and protection of human rights.

13. The efforts and cooperation of the Government of China should be encouraged, and his delegation therefore proposed that no action be taken on draft resolution E/CN.4/1992/L.49/Rev.1, in accordance with rule 65, paragraph 2, of the rules of procedure of the functional commissions of the Economic and Social Council.

14. The CHAIRMAN said that rule 65, paragraph 2, of the rules of procedure read: "A motion requiring that no decision be taken on a proposal shall have priority over that proposal". That meant that all subsequent statements must relate to the proposal by the representative of Pakistan.

15. Mr. ROA KOURI (Cuba) said that Tibet had been an integral part of China since the thirteenth century. The draft resolution, with its strange title, was nothing more than a political provocation against the People's Republic of China by those who wished to turn the Commission into an instrument conforming to their own particular concept of the world and of human rights and to question China's sovereignty over Tibet.

16. The Government of the People's Republic of China had been cooperating seriously with the United Nations. It maintained a constructive position towards human rights, unlike the one held by some of the sponsors of the draft resolution which was contrary to the spirit of cooperation that should guide States in their consideration of human rights issues. The draft resolution was yet another demonstration of the policy of selectivity which the countries of the affluent North, themselves responsible for many human rights violations, sought to impose on the countries of the South.

17. The non-aligned countries, and the countries of the South in general, must reject any such imposition and coordinate their action to prevent such moves in the future. His delegation thus fully supported the Pakistan proposal that, in accordance with rule 65, paragraph 2 of the rules of procedure, no action should be taken on the draft resolution.

18. Mr. MASRI (Syrian Arab Republic) said that he had listened carefully to the statement made by the representative of China, from which it was clear that the Government of that country had been cooperating and was continuing to cooperate with the Commission and other United Nations human rights bodies and had spared no effort to strengthen human rights within the country and to answer any questions directed to it.

19. The attitude of the sponsors of the draft resolution could not but be interpreted as contrary to the Commission's mandate. The draft resolution, which sought to infringe upon the sovereignty of a Member State of the United Nations, and which bore a very strange title, was obviously designed to serve political ends and was contrary to the Commission's mandate. His delegation therefore supported the Pakistani proposal that the Commission should take no action on the draft resolution, thus maintaining the Commission's credibility and the soundness of its actions.

20. Mr. BLACKWELL (United States of America) said that his delegation firmly opposed the motion to take no action on the draft resolution. His Government was deeply concerned about the persistent and serious human rights abuses that were taking place throughout China, as outlined in its annual human rights report of 31 January 1992. His delegation had become a sponsor of the draft resolution which reflected its concern about the situation throughout China, including serious problems in Tibet. The draft resolution, which in no way questioned China's sovereignty over Tibet, should be voted upon on its merits. The United States accepted that Tibet was part of China, but it was no less concerned about individuals in China whose fundamental human rights were being abused.

21. Mr. OMAR (Libyan Arab Jamahiriya) said that the draft resolution was shrouded in mystery, and his delegation shared the perplexity of others regarding its title. It was also misleading and clearly politically motivated. His delegation and others had previously warned against the serious effects that politicization and selectivity could have on the Commission. Account should be taken of the helpful attitude of the Government of China and of its cooperation with the United Nations in the field of human rights. For all those reasons, his delegation supported the proposal by the representative of Pakistan that no action should be taken on the draft resolution.

22. Mrs. GOMES (Portugal) said that the sponsors of the draft resolution had no intention of challenging China's territorial integrity, as those speaking against the text had implied. They had a genuine concern for human rights throughout China, and if those rights were violated throughout the country that was particularly so in the case of Tibet, where the people had a distinct cultural, religious and ethnic identity.

23. The Commission had before it a draft resolution on southern Lebanon, but no one would suggest that Lebanon's sovereignty over that territory was thereby being disputed. Similarly, no one was challenging the territorial integrity of China in seeking to consider the human rights situation there, with particular reference to an area in which the violations of human rights were the most serious.

24. The sponsors could not accept the argument that to bring the matter to the Commission's consideration was a politically biased move. It would, on the contrary, be politically biased to neglect a situation to which the Sub-Commission had drawn the Commission's attention.

25. Considerable information, including a note by the Secretary-General, on the situation of human rights in China, and particularly in Tibet, had been supplied to the Commission, and it would be a political act to ignore it. Some speakers had said that the Commission's credibility was at stake: it would certainly be so if it failed to take action on the substance of the issue. Her delegation therefore strongly opposed the motion designed to prevent the Commmission from considering the case on its merits.

26. Mr. DEWARAJA (Sri Lanka) said that his delegation considered the draft resolution unjustified for the reasons given by the representative of China and other speakers.

27. Mr. PETERS (Netherlands), speaking on a point of order, said that it would be contrary to the rules of procedure for three or more delegations to speak in favour of the motion to take no action on the draft resolution. The rules allowed for only two delegations to speak in favour and two against.

28. The CHAIRMAN said that rule 65, paragraph 2, of the rules of procedure placed no limitation on the number of speakers.

29. Mr. DEWARAJA (Sri Lanka), continuing his statement, said that the Commission should not question China's territorial integrity in any way. His delegation shared the concern expressed by other speakers about the title of the draft resolution. China had adopted far-reaching measures to ensure the enjoyment of all human rights by its population and had cooperated with the United Nations and fulfilled its obligations under the relevant human rights instruments. His delegation had also noted the progress achieved by China in the economic field and the improvement of living standards in Tibet and other parts of the country. It therefore opposed the draft resolution and strongly supported the proposal by the delegation of Pakistan.

30. Mr. M.K. JALLOW (Gambia) said that his delegation had given careful thought to the draft resolution and was of the opinion that it failed to take proper account of the situation of Tibetans and their special relationship with the People's Republic of China. His delegation thus supported the Pakistani proposal.

31. Mr. LEMINE (Mauritania) said that the draft resolution related to a particular region of China and the reference to China itself had been added as an afterthought without any change in the substance of the text. Such a move, which called into question China's sovereignty over Tibet, was not in accordance with the Commission's functions. China had consistently cooperated with United Nations organs, including those in the human rights field, and had just expressed its readiness to do so in the future.

32. Such good will deserved to be taken into account. His delegation did not consider that the adoption of the draft resolution was a proper course for the Commission to take, and it therefore supported the motion by the delegation of Pakistan that no action should be taken on it.

33. Mr. PETERS (Netherlands) said that his delegation opposed the Pakistani proposal as a matter of principle. Members of the Commission should be able to express themselves on the merits of the draft resolution. There was every reason to do so, since there was abundant information concerning violations of human rights in China. Members of the Commission - the central United Nations organ in the field of human rights - should face up to their responsibility and vote against the Pakistani proposal. Having done so, they would still be free to take a position in accordance with their own assessment of the situation.

34. Mr. NASSERI (Islamic Republic of Iran) said that the submission of the draft resolution, in both its original and its revised form, was a stealthy attempt to conceal political intent under the camouflage of a number of references to human rights. Those intentions were perfectly detectable by anyone with a knowledge of political realities. Any reader of the daily press

would be aware of the mounting pressure against China in various quarters, and there was every reason to believe that the draft resolution was directed to the same political objective. His delegation therefore fully endorsed the views of the representative of Pakistan and supported his proposal.

35. Mr. RHENAN-SEGURA (Costa Rica) said that it was the Commission's duty to condemn violations of human rights wherever and whenever they occurred. His delegation therefore firmly opposed the Pakistani proposal. The Commission's credibility depended on its capacity to deal with violations of human rights in small and large countries alike. It was not only the large and powerful countries that were entitled to take a decision in that regard.

36. To take no action on the draft resolution would be to adopt a position of selectivity, which the Commission should avoid. Citizens of the People's Republic of China had been denied their fundamental human rights, including the right to life, to political expression and to religious freedom, and the Government's policy threatened the cultural, religious and national identity of the Tibetan people.

37. At the request of the representative of China, a vote was taken by roll-call on the Pakistani proposal that no action should be taken on the draft resolution (E/CN.4/1992/L.49/Rev.1).

38. Peru, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Angola, Bangladesh, Burundi, Chile, China, Cuba, Cyprus, Gambia, Ghana, India, Indonesia, Iran, Islamic Republic of, Iraq, Kenya, Lesotho, Libyan Arab Jamahiriya, Madagascar, Mauritania, Nigeria, Pakistan, Philippines, Somalia, Sri Lanka, Syrian Arab Republic, Tunisia, Yugoslavia, Zambia.

Against: Australia, Austria, Canada, Costa Rica, Czech and Slovak Federal Republic, France, Germany, Hungary, Italy, Japan, Netherlands, Portugal, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Brazil, Bulgaria, Colombia, Gabon, Mexico, Peru, Senegal, Uruguay, Venezuela.

39. The Pakistani proposal was adopted by 27 votes to 15, with 10 abstentions.

The meeting was suspended at 8 p.m. and resumed at 8.30 p.m.

Draft resolution on the situation in East Timor (E/CN.4/1992/L.27)

40. The CHAIRMAN informed the Commission that sponsors wished to withdraw the draft resolution, consideration of which had previously been deferred.

41. Following consultations with the delegations concerned and with members of the Bureau, he wished to make the following statement in announcement of the consensus reached by the Commission on the situation of human rights in East Timor.

"1. The Commission on Human Rights notes with serious concern the human rights situation in East Timor, and strongly deplores the violent incident in Dili, on 12 November 1991, which resulted in the loss of lives and injuries of a large number of civilians and in many unaccounted for.

2. The Commission welcomes the early action of the Indonesian Government in setting up a national commission of inquiry and the prompt response which its advance report elicited from the highest Indonesian authorities; expresses its hope that, as announced by the Indonesian Government, further investigation into the action of the security personnel on 12 November 1991, and into the fate of those unaccounted for will clarify the remaining discrepancies, namely on the number of people killed and those missing.

3. The Commission is encouraged by the recent announcement by the Indonesian authorities of disciplinary measures and military court proceedings regarding some members of its Armed Forces and urges the Indonesian Government to bring to trial and punish all those found responsible. Furthermore, the Commission calls upon the Indonesian authorities to ensure that all civilians arrested on the occasion are treated humanely, that those brought to trial are assured of proper legal representation and fair trial and that those not involved in violent activities are released without delay.

4. The Commission welcomes the appointment of Mr. Amos Wako, as Personal Envoy of the Secretary-General of the United Nations, to obtain clarification on the tragic events of 12 November 1991 and the willingness of the Indonesian authorities to cooperate fully with him. The Commission encourages the Secretary-General to continue his good offices for achieving a just, comprehensive and internationally acceptable settlement of the question of East Timor.

5. The Commission urges the Government of Indonesia to improve the human rights situation in East Timor; commends the report entitled 'Visit by the Special Rapporteur to Indonesia and East Timor' of its Special Rapporteur on Torture following his visit at the invitation of the Indonesian Government; urges the Indonesian authorities to take the necessary steps to implement its recommendations and looks forward to a report thereon; calls on the Indonesian Government to facilitate access to East Timor for additional humanitarian organizations and for human rights organizations; and requests the Secretary-General to continue to follow closely the human rights situation in East Timor and to keep the Commission informed at its forty-ninth session.

6. This statement will be included verbatim in the report of the forty-eighth session of the Commission."

Draft resolution on the situation of human rights in Afghanistan (E/CN.4/1992/L.62/Rev.1)

42. The CHAIRMAN, introducing the draft resolution, said that it was the subject of agreement between all the parties most directly concerned. He consequently hoped that it would be adopted by consensus.

43. Mr. MAUTNER-MARKHOF (Secretary of the Commission) said that the cost estimates relating to the draft resolution were US$ 107,800 for 1992, and US$ 14,400 for 1993. Those cost estimates were based on previous expenditure patterns and the provisions therefore were included in the programme budget for the 1992-1993 biennium.

44. There were two corrections to be made to the text of the draft resolution. In the tenth preambular paragraph, inverted commas should be inserted between the words "the" and "joint statement" and between the words "mujahidin" and "issued". Operative paragraph 11 should read "Welcomes the release by the opposition forces of three Soviet prisoners of war in February 1992, and encourages them to further continue to release all of them".

45. The draft resolution (E/CN.4/1992/L.62/Rev.1) was adopted without a vote.

Draft resolution on the situation of human rights in Albania (E/CN.4/1992/L.69)

46. Mr. PEREIRA GOMES (Portugal), introducing the draft resolution on behalf of its sponsors, to which should be added the delegations of Austria, France and the United States of America, and the observers for Belgium, Spain and Switzerland, said that there were two corrections to be made to the text. Operative paragraph 2 should read "calls upon the Government of Albania to respect the rights of persons belonging to minorities living in the country". Operative paragraph 3 should read "Emphasizes the need to guarantee the free expression of the will of the electors in the forthcoming elections and, in particular, the right of all Albanian citizens to form their own political parties, to stand for election and to vote".

47. The draft resolution was intended to reflect the satisfaction of the international community at the positive changes towards democracy which had occurred in Albania, as reflected in particular by the recent general elections and the forthcoming consultation of the electorate. The Government of Albania had also demonstrated a commendable willingness to cooperate with the Commission and with the United Nations Centre for Human Rights. It was to be hoped that the people of Albania, with the support of the international community, would overcome their current difficulties which were the result of more than 40 years of dictatorship and of denial of human rights.

48. The sponsors hoped that the draft resolution would be adopted by consensus.

49. The draft resolution (E/CN.4/1992/L.69) was adopted without a vote.

Draft resolution on the situation of human rights in southern Lebanon (E/CN.4/1992/L.70)

50. Mr. LEMINE (Mauritania), introducing the draft resolution on behalf of its sponsors, said that the Commission was invited to express grave concern at the persisting practices of the Israeli occupation forces in southern Lebanon, in violation of the principles of international law and of the relevant resolutions of the Security Council; to welcome the ongoing peace negotiation process and affirm that the continued violation of human rights by Israel

impeded that process; and to express grave concern at the hampering of the humanitarian mission of the International Committee of the Red Cross and other humanitarian organizations in occupied southern Lebanon.

51. The draft resolution condemned the continued Israeli violations of human rights in southern Lebanon and called upon Israel to put an immediate end to such practices and to implement the relevant resolutions of the Security Council. It also called on the Government of Israel, in its capacity as the occupying Power in southern Lebanon, to comply with the Geneva Conventions of 1949, particularly the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), and to facilitate the humanitarian mission of the International Committee of the Red Cross and other humanitarian organizations and, in particular, to allow those organizations to visit the detention centres of Khiam and Marjeyoun.

52. The draft resolution also requested the Secretary-General to bring the resolution to the attention of the Government of Israel and to invite it to provide information concerning its implementation and to report to the General Assembly and the Commission on Human Rights on the results of his efforts in that regard. Lastly, the Commission would decide to continue its consideration of the situation of human rights in southern Lebanon at its forty-ninth session.

53. Having indicated a slight modification in the French text, where the word "gênés" in the penultimate preambular paragraph should be replaced by the word "entravés", he expressed the hope that the resolution could be adopted without a vote.

54. The CHAIRMAN said that the representative of the United States of America had asked for a vote on the draft resolution.

55. Mr. LEMINE (Mauritania) requested a roll-call vote.

56. Mr. WALDEN (Observer for Israel) said that the draft resolution was identical with that adopted in 1991, except for a backhanded reference to the current peace process, which Israel was accused of impeding. As to whether that process was being impeded by the bombardment of Israel from southern Lebanon and the killing of children and young men, that did not seem to be the case, if the lack of concern on the part of the Commission was anything to go by.

57. His delegation's virtual silence throughout the session was sufficiently explained by the nature of resolutions such as that which had been adopted on the Middle East dispute. Although his delegation took some comfort, from the waning support for extremist resolutions of that kind, it could not remain silent in the face of so glaringly one-sided a text as that currently before the Commission. With missiles raining down and constant armed incursions from southern Lebanon into its territory, Israel was apparently to be denied even the right to self-defence under article 50 of the Charter.

58. At the beginning of the session, his delegation had urged the Commission to refrain from adopting resolutions that were incompatible with the peace process, but it seemed that the appeal had gone unheard. Israel had no

illusions as to the result of the impending vote, and could only express regret that the Commission continued to demonstrate such a detachment from current events in the Middle East.

59. Mr. EL-KHAZEN (Observer for Lebanon) said that the acts of resistance to which the previous speaker had alluded would not have occurred without Israel's occupation of southern Lebanon, its cavalier treatment of the Lebanese inhabitants and its despoliation of their lands. As long as such a situation persisted, there would be a struggle to recover what had been lost.

60. A vote was taken by roll-call on the draft resolution (E/CN.4/1992/L.70).

61. Tunisia, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Angola, Argentina, Australia, Austria, Bangladesh, Brazil, Bulgaria, Burundi, Canada, Chile, China, Colombia, Costa Rica, Cuba, Cyprus, Czech and Slovak Federal Republic, France, Gabon, Gambia, Germany, Ghana, Hungary, India, Indonesia, Iran, Islamic Republic of, Italy, Japan, Kenya, Lesotho, Libyan Arab Jamahiriya, Madagascar, Mauritania, Mexico, Netherlands, Nigeria, Pakistan, Peru, Philippines, Portugal, Russian Federation, Senegal, Somalia, Sri Lanka, Syrian Arab Republic, Tunisia, United Kingdom of Great Britain and Northern Ireland, Venezuela, Yugoslavia, Zambia.

Against: United States of America.

Abstaining: Uruguay.

62. The draft resolution (E/CN.4/1992/L.70) was adopted by 49 votes to 1, with one abstention.

The meeting rose at 9 p.m.